

House Bill 479

By: Representatives Clark of the 147th, Cantrell of the 22nd, Smith of the 134th, England of the 116th, Setzler of the 35th, and others

A BILL TO BE ENTITLED
AN ACT

To provide greater protections for individuals who have suffered from childhood sexual abuse; to amend Code Section 9-3-33.1 of the Official Code of Georgia Annotated, relating to actions for childhood sexual abuse, so as to extend the statute of limitations for actions for childhood sexual abuse under certain circumstances; to clarify existing law; to revise and provide for definitions; to provide for retroactive claims for childhood sexual abuse under certain circumstances; to provide for a short title; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

This Act shall be known and may be cited as the "Hidden Predator Act of 2019."

SECTION 2.

Code Section 9-3-33.1 of the Official Code of Georgia Annotated, relating to actions for childhood sexual abuse, is amended by revising paragraph (2) of and adding a new paragraph to subsection (b), by revising subsection (c), and by adding subsection (d) as follows:

"(2)(A) Notwithstanding Code Section 9-3-33, any civil action for recovery of damages suffered as a result of childhood sexual abuse committed on or after July 1, 2015, shall be commenced:

(i) On or before the date the plaintiff attains the age of 23 years; or

(ii) Within ~~two~~ four years from the date that the plaintiff knew or had reason to know of such abuse and that such abuse resulted in injury to the plaintiff as established by competent medical or psychological evidence.

(B) When a plaintiff's civil action is filed after the plaintiff attains the age of 23 years but within ~~two years from the date that the plaintiff knew or had reason to know of such abuse and that such abuse resulted in injury to the plaintiff~~ the time period described in division (b)(2)(A)(ii) of this Code section, the court shall determine from admissible

evidence in a pretrial finding ~~when~~ the date upon which the discovery of the harm from the alleged childhood sexual abuse occurred and whether the civil action was timely filed under this Code section. The pretrial finding required under this subparagraph shall be made within six months of the filing of the civil action.

(3) Notwithstanding Code Section 9-3-33, a plaintiff who is between the age of 23 and 38 years may bring a civil action for recovery of damages suffered as a result of childhood sexual abuse committed on or after July 1, 2019.

(c)(1) As used in this subsection, the term:

(A) 'Entity' means an institution, agency, firm, business, corporation, or other public or private legal ~~entity~~ organization.

(B) 'Person' means the individual alleged to have committed the act of childhood sexual abuse.

(2) If a civil action for recovery of damages suffered as a result of childhood sexual abuse is commenced pursuant to division (b)(2)(A)(i) of this Code section and if the person was a volunteer or employee of an entity that owed a duty of care to the plaintiff, or the person and the plaintiff were engaged in some activity over which such entity had control, damages against such entity shall be awarded under this Code section only if by a preponderance of the evidence there is a finding of negligence on the part of such entity.

(3) If a civil action for recovery of damages suffered as a result of childhood sexual abuse is commenced pursuant to division (b)(2)(A)(ii) or paragraph (3) of subsection (b) of this Code section and if the person was a volunteer or employee of an entity that owed a duty of care to the plaintiff, or the person and the plaintiff were engaged in some activity over which such entity had control, damages against such entity shall be awarded under this Code section only if by a preponderance of the evidence there is a finding ~~that there was~~ of gross negligence on the part of such entity, that the entity knew or should have known of the alleged conduct giving rise to the civil action, and ~~that~~ that such entity failed to take remedial action.

(d) Reserved."

SECTION 3.

Said Code section is further amended by adding a new subsection to read as follows:

"(e)(1) As used in this subsection, the term:

(A) 'Entity' means an institution, agency, firm, business, corporation, or other public or private legal organization.

(B) 'Person' means the individual alleged to have committed the act of childhood sexual abuse.

62 (C) 'Responsibility for the care' means:

63 (i) The person was a volunteer or employee of an entity that owed a duty of care to
64 the plaintiff; or

65 (ii) The person and the plaintiff were engaged in some activity over which an entity
66 had control.

67 (2) For a period of one year following July 1, 2019, plaintiffs of any age who were time
68 barred from filing a civil action for recovery of damages suffered as a result of childhood
69 sexual abuse due to the expiration of the statute of limitations in effect on June 30, 2019,
70 shall be allowed to file such actions, which had lapsed or technically expired under the
71 law in effect on June 30, 2019. Such actions shall be permitted to be filed against:

72 (A) A person who had a responsibility for the care of the plaintiff. For a plaintiff filing
73 under this paragraph, damages against such person may be awarded only if the plaintiff
74 proves by a preponderance of the evidence that such person acted negligently; and

75 (B) An entity when such entity had a responsibility for the care of the plaintiff, such
76 entity knew or should have known of the alleged conduct giving rise to the civil action,
77 and such entity's actions involved harboring, assisting, concealing, or withholding
78 information about the person.

79 (3) For purposes of subparagraph (B) of paragraph (2) of this subsection:

80 (A) Actions by an entity may include:

81 (i) Failing to report suspected child abuse in accordance with Code Section 19-7-5;

82 (ii) Harboring, attempting to harbor, or assisting another individual or entity in
83 harboring such person;

84 (iii) Allowing such person to continue working in a paid or volunteer position within
85 such entity;

86 (iv) Transferring, moving, or referring such person to another place of employment
87 without disclosing information regarding such person's conduct; or

88 (v) Intentionally or with conscious indifference concealing, attempting to conceal,
89 or assisting another individual or entity in concealing or attempting to conceal such
90 person's alleged conduct;

91 (B) A plaintiff may recover damages against an entity only if he or she proves by clear
92 and convincing evidence the elements required by subparagraph (B) of paragraph (2)
93 of this subsection and one of the actions set forth in subparagraph (A) of this paragraph;
94 and

95 (C) When an entity is an unincorporated association, the individual members or owners
96 of it shall not be personally liable for the actions of such association unless such
97 individual's own actions constitute negligence by being a deviation from the standard

107 **SECTION 4.**
108 All laws and parts of laws in conflict with this Act are repealed.

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